

WESTVIEW SCHOOL
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June 14, 2013

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Re **CC Docket No. 02-6**
Petition for Reconsideration
Academy of Accelerated Learning Order, DA 13-1075

Dear Ms. Dortch,

With this letter Westview School ("Westview") respectfully requests that the Federal Communications Commission ("Commission") reconsider its denial¹ of Westview's Petition for Waiver² of the Funding Year 2013 application window close deadline.

Background

In our Petition for Waiver, we had stated that "I cannot say with certainty whether the problem in late January was the result of a problem with the USAC website, or by my own error or omission". I have since conferred with my assistant, Helen Kang, and we are now certain that we did in fact properly submit Form 470 #187440001096072 on January 10, 2013, through USAC's online application system.

We had attempted to file our Funding Application before the window close date of March 14, 2013; however, USAC's online application system would not accept our submission, as the system did not find our Form 470 filing. As a result of this system failure, we were forced to submit a new Form 470 # 780860001132868 on March 5, and we were not able to evaluate service provider proposals and file and certify our Form 471 #933367 until April 4 – 21 days after the window close date. Therefore, our late filing came as a direct result of circumstances beyond our control – i.e., a failure of USAC's online application system.

USAC and independent parties have documented the unreliability of USAC's online systems. Attached as Appendix A is a letter from software engineer David A. Behar in which he documents an example of a serious failure in USAC's online filing system, and

¹ *Academy of Accelerated Learning Order*, Order DA 13-1075, released May 15, 2013

² Received March 28, 2013; posted at <http://apps.fcc.gov/ecfs/document/view?id=7022135809>

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March 28, 2013
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to which is attached USAC's acknowledgement of problems with their online application system.

Especially in light of the makeup of our special-needs student population (which we documented in the Petition for Waiver), it is clearly in the public interest that the Commission reconsider its earlier decision and grant this Petition for Reconsideration.

Analysis

In the *Bishop Perry Order*³, the Commission dealt specifically with several instances where there was a dispute between USAC and a petitioner regarding whether "the petitioner submitted the relevant information on time". In those particular cases, the Commission noted that since it was difficult to determine "whether the error was the fault of the applicant, USAC or a third party", the Commission gave the applicant the benefit of the doubt.

In this case, we are certain that we properly submitted Form 470 on January 10, and there exists no reliable source on which USAC can base the proposition that our original Form 470 was not properly submitted. Westview only prepared and submitted a late, substitute Form 470 in an effort to mitigate the damage (since USAC's application system would not accept our Funding Application without a new Form 470 submission), and Westview was therefore compelled to wait past the window close date to file Form 471.

Therefore, we exceed the *Bishop Perry* standard ("difficult to determine... whether the error was the fault of the applicant, USAC or a third party") because no reliable evidence exists to refute our firm assertion that we did indeed submit the earlier Form 470 properly, and that therefore it is a direct result of a failure in USAC's information systems which prevented us from timely submitting our Funding Application. Any information coming from USAC's online application system is unreliable and should not be considered in reaching a finding.

Request for Waiver

For the reasons stated in this letter, Westview respectfully requests that the Federal Communications Commission reconsider its denial of our March 28 Petition for Waiver, and grant a waiver of the FCC Form 471 filing window deadline for our Funding Year 2013 E-Rate funding application.

WESTVIEW SCHOOL

Ellen Retting

Ellen Retting
Director of Development

³ *Bishop Perry Middle School et al*, 21 FCC Rcd 5316 (FCC 06-54)

**APPENDIX A
to Petition for Reconsideration
dated June 14, 2013**

DAVID A. BEHAR, M.B.A., M.S.E.

June 14, 2013

Ms. Helen Retting
Westview School
11801 Mississippi Ave
Los Angeles, CA 90025

Dear Ms. Retting,

You have asked me to describe my professional qualifications, and to document my experience in working with USAC's online application system for E-Rate applicants.

My academic credentials include a B.S. in Computer Science (University of Washington, 1980), a Master of Software Engineering degree (Seattle University, 1988), and a Master of Business Administration degree (Seattle University, 1988). I have experience and expertise in the development of complex information systems (e.g., leading the development of a nationwide accounting and course-registration information system for an IBM subsidiary which provided training to end users).

Over the past few years I have on multiple occasions assisted schools and libraries with the E-Rate application process. Although the general sentiment of many applicants is that the E-Rate program and the online application process are both unnecessarily complex, the purpose of this letter is to report my personal experience with multiple malfunctions of USAC's online application system, at least one of which was sufficiently serious to corrupt a funding application and jeopardize an applicant's E-Rate funding.

On March 14 of this year an associate and I were assisting a few applicants with the submission of the Form 471 funding application form, and among those applicants were two completely unrelated entities – Annette Island School District ("AISD"), and Hoonah City School District ("HCSD"). Using USAC's online system, we submitted a Form 471 for AISD, and USAC's online system corrupted the submission so in USAC's records Blocks 2 through 6 of the Form 471 had the correct information for AISD, but information for unrelated entity HCSD appeared in Block 1. We have a "print preview" of the form showing we entered the information correctly; therefore, the cause of the error was a malfunction of USAC's online application system.

I notified USAC of the error (see attachment), and in their response they acknowledge that they are aware of some kind of problem related to what I describe here (although they did not mention anything about analyzing or correcting the system problem).

I am personally aware of other malfunctions with USAC's online systems; for example, starting a couple of years ago the feature which is supposed to download a compressed

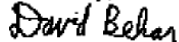
P.O. Box 40204 • Spokane, WA 99220
Phone 206-856-7349 • Fax 206-337-9971

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file of all Form 470 information (including Block 2 and Block 4 information) provided either no information or just a few rows for Block 4 information. When I made an inquiry to USAC about this malfunction, they acknowledged the problem but no action was taken (and it was not clear whether they had or had not been aware of the problem before I reported it to them).

The USAC online application system is a complex system, and clearly a great deal of effort went into developing it. Based on my personal experience, it appears that most of the features work as intended most of the time. However, in my professional opinion, and based on my personal experience with the system, it would not be appropriate to absolutely rely on the system or on the information it provides – especially when a large sum of money might be at stake (as is the case for an applicant's funding application).

Sincerely,



David A. Behar, M.B.A., M.S.E.

Attached: 3/29/2013 email from USAC's Schools and Libraries Division

From: <slidnoreply@sl.universalservice.org>

To: <david@eratesupportservices.com>

Sent: Friday, March 29, 2013 6:24 AM

Subject: RE: Initial Contact- Case 22-487455

Thank you for your inquiry. There have been some issues reported that the block 1 information on the print preview was pulling up the wrong entity information. However, we can confirm that the block 1 entity information for Form 471 application number 910070 is in fact showing Hoonah City School District. You can also view this information on the Apply online page and under Form 471 click on Display. Enter in the 471 application number (the security code is not required) and you can see that the block 1 info is correct.

Please note that this Form 471 application is showing Complete and not certified. You must certify the Form 471 application right away.

The following information was provided on the 3/22/13 weekly Newsbrief which can be found here: <http://www.usac.org/sl/tools/news-briefs/preview.aspx?id=479>

Certified FCC Forms 471 – that is, forms filed online and certified online, filed online and certified on paper, or filed on paper – generally begin with one of two statuses: Certified - In Window or Certified - Out of Window.

Paper forms for FY2013 that were postmarked on or before March 14, 2013 and forms filed online and certified (online or on paper) on or before March 14, 2013 will generally show a status of Certified - In Window.

Paper forms for FY2013 that were postmarked after March 14, 2013 and forms certified (online or on paper) after March 14, 2013 will generally show a status of Certified - Out of Window.

Note that the status of some out-of-window FY2013 FCC Forms 471 will be changed to Certified - In Window in the near future. For FY2013, these include forms submitted online on or before 11:59 pm EDT on March 14, 2013 and then certified either online or on paper after the filing window closed but on or before the extended certification deadline. (We will discuss this extended deadline in a future SL News Brief. However, if you have not yet certified your form, you should do so as soon as possible.)

If you have any further questions, please feel free to contact our Schools and Libraries Helpline at 1-888-203-8100. Please remember to visit our website for updates: <http://www.usac.org/sl>

Thank you,
Schools and Libraries Division
Universal Service Administrative Company

-----Original Message-----

From: david@eratesupportservices.com

Subject: Initial Contact

[FirstName]=David

[LastName]=Behar

[JobTitle]=

[EmailAddress]=david@eratesupportservices.com

[WorkPhone]=2068567349

[FaxPhone]=

[PreviousCaseNumber]=0

[FormType]=Other

[Owner]=TCSB

[DateSubmitted]=3/28/2013 11:47:14 PM

[AttachmentFlag]=Y[Question2]=The USAC online processing system has apparently corrupted Block 1 data for Funding App #910070.

Attached find a Form 471 Print Preview file for this Funding App, taken immediately before submitting the form, showing that this is an application for Annette Island School District (BEN 145693).

However, somehow the online processing system has inserted into this Funding App Block 1 info for a totally unrelated entity – Hoonah City School District, BEN 145672. We've attached Form 471 info as it currently appears on the USAC website. However, all of the rest of the info (Blocks 2 through 6) is info (correctly) for Annette Island School District.